

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks. This response has been submitted concurrently with a Request for Continued Examination (RCE) at least because the amendments to the claims are believed to raise new issues requiring further search and/or consideration.

Claims 4 and 14 were previously cancelled. Claim 7 has been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1-3, 5, 6, 8-10 and 13 and 15 have been amended. Thus, claims 1-3, 5, 6, 8-13, 15 are pending in the present application, of which claims 1, 10, 13, and 15 are independent.

Noted - Priority Document Received By USPTO

The indication (see present Office Action Summary, boxes 12(a)(1) are checked) that the certified copy of the priority document has been received by the USPTO is noted with appreciation.

Noted - IDS Considered

The indication (see Examiner-initialed attachment to the Office Action mailed November 15, 2007) that the Information Disclosure Statement (IDS) as filed on February 4, 2004 and references listed therein have been considered is noted with appreciation.

Noted - Drawings Approved

The indication (see Office Action Summary, boxes 10(a) are checked) that the Drawings (submitted on February 4, 2004) have been approved is noted with appreciation.

Claim Rejection Under 35 U.S.C. §103

Claims 1-3, 5, 8, 10-13, and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over A. Diwan (U.S. Patent No. 6,801,936, hereafter Diwan) in view of J.C.I. Chuang et al. ("Pricing Multicast Communication: A Cost Based Approach", hereafter Chuang).

Claims 6, 7, and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Diwan in view of Chuang, in further view of V. Dureau (U.S. Patent Publication No. 2003/0135860, hereafter, Dureau).

INDEPENDENT CLAIMS 1, 10, 13, and 15

As an example, independent claim 1 recites (among other things) a feature of "... analyzing at least an encoding scheme of the video stream." Further, independent claims 10, 13, and 15 recite (among other things) a feature of "analyzing at least an encoding scheme of the video stream." As will be explained below, at least the noted features of claims 1, 10, 13, and 15 provide a distinction over Diwan, and thus over its combination with Chuang.

The Office Action acknowledges in page 6, item 6 that the system of Diwan and Chuang fails to explicitly disclose analyzing an encoding scheme of the video stream.

The feature of "analyzing an encoding scheme of the video stream" recited in amended claims 1, 10, 13, and 15 was originally recited in cancelled claim 7. The Office Action relies on Dureau to reject cancelled claim 7. As will be explained below, the above noted features of claims 1, 10, 13 and 15 provide distinctions over Dureau and thus over the combination of Diwan, Chuang and Dureau.

Dureau discloses that "a service provider may transmit HTML data, MPEG 1, 2, or 4 data, or other data" (see paragraph [0035]). Further, Dureau discloses that "receiver 340 is configured to not only receive this data, but also to transcode data from one format to another" (see paragraph [0035]). However, a technique of transcoding data for which the encoding scheme is known in advance is different from a technique of analyzing an encoding scheme of a video stream. Hence, the

noted feature of claims 1, 10, 13 and 15, namely "analyzing at least an encoding scheme of the video stream" is a distinction over Dureau. Again, the noted feature is also a distinction over Diwan and Chuang as evidenced, e.g., by the Office Action. That is, the Office Action does not assert Diwan and Chuang as disclosing the noted feature of claims 1, 10, 13 and 15.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claims 1, 10, 13, and 15 noted above, at least one claimed element is not present in the asserted combination of references. Hence, the Office Action fails to establish a *prima facie* case of obviousness against claims 1, 10, 13, and 15. Claims 2-3, 5, 8, and 11-12 ultimately depend from claims 1 and 10, respectively and so at least similarly distinguish over the asserted combination of references.

Claims 6, 7, and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Diwan in view of Chuang, in further view of Dureau.

Claim 7 has been cancelled without prejudice or disclaimer. Claims 6 and 9 ultimately depend from claim 1. Accordingly, these dependent claims are patentable over the cited references for at least the reasons provided above with respect to independent claim 1.

In view of the foregoing discussion, the rejection of claims 1-3, 5-6, 8-13, and 15 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

PATENT

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Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-4610.

Respectfully submitted,

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